

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

Case No. 98-0311-01-CR-W-GAF

EDWIN R. HINESTROZA,)

Defendant.)

ORDER

Now pending before the Court is Defendant's Motion to Strike Statutory Aggravating Factor of Pecuniary Gain as Overbroad and Duplicative to Count Three. On October 6, 2005, United States Magistrate Judge Sarah W. Hays issued her Report and Recommendation. On October 21, 2005, defendant's filed his Objections to the Report and Recommendation.

Upon careful and independent review of the pending motion, defendant's objections to the Magistrate's Report and Recommendation, as well as the applicable law, this Court hereby adopts and incorporates as its own Opinion and Order the Report and Recommendation of United States Magistrate Judge Sarah W. Hays.

Accordingly, it is hereby ORDERED that Defendant's Motion to Strike Statutory Aggravating Factor of Pecuniary Gain as Overbroad and Duplicative to Count Three is OVERRULED and DENIED.

SO ORDERED.

/s/ Gary A. Fenner
GARY A. FENNER, JUDGE
United States District Court

DATED: October 24, 2005